

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MILLER AND LIEB WATER COMPANY, INC.)
For Review and Approval of (a) a)
Rate Increase and Revised Rate)
Schedules and (b) Certain Financing)
Arrangements for New Utility)
Improvements.)
_____)

DOCKET NO. 2006-0442

ORDER NO. 23134

Filed Dec. 13, 2006
At 2 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

ATTEST: A True Copy

for KAREN HIGASHI

Chief Clerk, Public Utilities
Commission, State of Hawaii.

Broderick K. Kine

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In the Matter of the Application of)
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Arrangements for New Utility)
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Docket No. 2006-0442

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ORDER

By this Order, the commission approves MILLER AND LIEB WATER COMPANY, INC.'s ("Miller & Lieb") request to submit its unaudited financial statements in lieu of an audited balance sheet, required under Hawaii Administrative Rules ("HAR") § 6-61-75(b)(1), provided that Miller & Lieb make available for review all documentation supporting its financial statements.¹ The commission also finds that Miller & Lieb's application² is complete and properly filed under HRS § 269-16(f) and HAR § 6-61-88, and, thus, the filing date of Miller & Lieb's completed Application is November 8, 2006.

¹The DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and HAR § 6-61-62. Miller & Lieb and the Consumer Advocate are hereafter collectively referred to as the "Parties."

²On November 8, 2006, Miller & Lieb filed its Application; Exhibits MLW 1 - MLW 10; Exhibit MLW-T-100; Exhibit MLW-T-200; Verification (a notarized version of which was filed on November 13, 2006); and Certificate of Service (collectively, "Application"). Copies of the Application were served on the Consumer Advocate.

Finally, the commission instructs the Parties to file a stipulated procedural order for the commission's review and approval within thirty (30) days from the date of this Order. If the Parties are unable to stipulate to a procedural order, the commission will issue its own procedural order that complies with the time requirements of HRS § 269-16(f)(3).

I.

Background

Miller & Lieb is a Hawaii corporation and a public utility as defined by HRS § 269-1 and, thus, is regulated by the commission under Chapter 269, HRS. Miller & Lieb is authorized by the commission to provide water service to the residents and occupants of the Hawaiian Beaches subdivision, located in Pahoia, District of Puna, on the island of Hawaii.

It currently serves approximately 1,100 customers within its authorized service territory and charges its customers a flat monthly Water Service Charge of \$12.00 plus an additional charge for its electric power adjustment clause ("EPAC"). The only other established charge set forth in Miller & Lieb's rate schedule is a non-recurring Water Service Connection Charge of \$250.00 per connection.

On November 8, 2006, Miller & Lieb filed its Application for commission approval of, among other things, a general rate increase of \$392,987, or approximately 123.9% over

revenues at present rates, pursuant to HRS § 269-16.³ The requested increase is based on an estimated total revenue requirement of \$710,147 for its 2007 calendar test year, and a proposed rate of return of 9.5%.

With this in mind, Miller & Lieb proposes to increase its rates and charges as follows:

	Present Rates	Proposed Rates
Non-Recurring Charges:		
Water Service Connection Charge	\$250.00 per Connection	\$1,500.00 per Connection
Voluntary Disconnect and Reconnection Charge	---	\$260.00 per Request
Involuntary Disconnect and Reconnection Charge	---	\$60.00 per Instance
Return Check Fee	---	\$30.00 plus Bank Charge
Recurring Charge:		
Water Service Charge	\$12.00 plus EPAC	\$49.24 (Includes EPAC)

Aside from the above, Miller & Lieb requests commission approval to reset its EPAC from the existing base rate of \$0.228 per thousand gallons to \$0.7604 per thousand gallons, using an average per customer usage amount of 17,000 gallons per month.

³Recognizing that its proposal would require an increase of over 100% from its existing base rate of \$12.00 per month plus its current EPAC of approximately \$10.00, Miller & Lieb is proposing to phase-in the increase so that its current total water service charge of approximately \$22.00 per month is first increased to \$36.00 per month ("Interim Rate"). This Interim Rate would be in effect for 12 months following the issuance of the commission's decision and order regarding Miller & Lieb's rate increase request.

Miller & Lieb also requests commission approval of certain changes to its Rules and Regulations Governing Water Service and approval of certain financial transactions, under HRS §§ 269-17 and 269-19, which will be used to finance proposed water system improvements, including the drilling and outfitting of a new water production well and pump, and associated storage facilities.

Furthermore, with regards to its Application, Miller & Lieb requests, pursuant to HAR § 6-61-92, that its unaudited financial statements, submitted with its Application, be accepted in lieu of audited financial statements as required under HAR § 6-61-75(b)(1) ("Waiver Request"). Lastly, Miller & Lieb requests that the commission conduct a public hearing on the island of Hawaii pursuant to HRS § 269-16 and Chapter 6-61, HAR.

On November 28, 2006, the Consumer Advocate filed its Statement of Position Regarding Completeness of Application, stating that it does not object to the completeness of Miller & Lieb's Application.

II.

Discussion

Miller & Lieb is a public utility with annual gross operating revenues of less than \$2 million, and, as such, it filed its Application under HAR § 6-61-88 (Requirements for General Rate Increase Applications by a Public Utility with Annual Gross Operating Revenues of Less than \$2,000,000) and HRS § 269-16(f). Under HRS § 269-16(f), the commission must make

every effort to issue its proposed decision and order within six (6)-months from the filing date of Miller & Lieb's complete Application, "provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene." HRS § 269-16(f)(3).

A.

Waiver Request

HAR Chapter 6-61, Subchapter 8, governs rate increase applications and tariff changes. In relevant part, HAR § 6-61-86 requires a public utility requesting authority to change its rate, schedule, or charge to file an application, and a financial statement under HAR § 6-61-75. HAR § 6-61-75(b)(1) requires that financial statements be accompanied by "[a]n audited balance sheet, including any pertinent notations and explanations contained therein, as of the end of the last calendar year[.]" HAR § 6-61-75(b)(1).

HAR § 6-61-92 states that the commission may modify the requirements of Subchapter 8, HAR Chapter 6-61, in its discretion, if the requirements of the subchapter would impose a financial hardship on the applicant or be unjust or unreasonable. Further, under HRS § 269-16(f), the commission is authorized to amend its rules and procedures "which will provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers." HRS § 269-16(f).

Miller & Lieb requests, pursuant to HAR § 6-61-92, that its unaudited financial statements (submitted with its Application as Exhibit MLW 2, Schedule 5), be accepted in lieu of audited financial statements as required under HAR § 6-61-75(b)(1). It contends that as a small utility with annual revenues "substantially" less than \$2 million, Miller & Lieb does not have audited financial statements and that compliance with the requirement would delay the filing of the Application, and impose additional financial burdens on it.

The Consumer Advocate does not object to approval of Miller & Lieb's Waiver Request, provided that it makes available for review all documentation supporting its financial statements, including all accounting books and records.

Here, the commission finds that the requirement for Miller & Lieb to submit an audited balance sheet pursuant to HAR § 6-61-75(b)(1) appears to be burdensome and unnecessary, and, thus, is unjust and unreasonable in this instance. Hence, the commission finds good cause to approve Miller & Lieb's Waiver Request, subject to the Consumer Advocate's proposed condition.

B.

Complete Application

Upon review, the commission finds that Miller & Lieb's Application is complete and properly filed under HRS § 269-16(f) and HAR § 6-61-88, and, thus, concurs with the Consumer Advocate's assessment regarding the completeness of the

Application. Thus, the filing date of Miller & Lieb's complete Application is November 8, 2006.

C.

Public Hearing

In accordance to the requirements of HRS § 269-16, the commission has scheduled the public hearing on Miller & Lieb's complete Application for Thursday, January 11, 2007, 6:00 p.m., on the island of Hawaii.

D.

Stipulated Procedural Order

HRS § 269-16(f)(3) is interpreted by the commission to require it to issue a procedural order allowing the commission to complete its review and issue its proposed decision and order within the six (6)-month period prescribed in the subsection. For this reason, the Parties are instructed to: (1) initiate the discovery process without delay; and (2) within thirty (30) days from the date of this Order, submit a stipulated procedural order setting forth the issues, procedural schedule, and procedures to govern Miller & Lieb's Application. At a minimum, the stipulated procedural schedule submitted by the Parties shall provide that Miller & Lieb's rebuttal testimony (or rebuttal statement of position), if any, be filed by Friday, March 23, 2007, in order for the commission to reasonably meet the six (6)-month deadline of May 8, 2007. If the Parties are unable to agree on a

procedural order, as prescribed, the commission will issue its own procedural order in accordance with HRS § 269-16(f)(3).

Under HRS § 269-16(f)(3), in the event that the conditions of the subsection are fully met (i.e., the Parties strictly comply with the established procedural schedule and no person is granted intervention), the Parties shall not be entitled to a contested case hearing prior to the issuance of the commission's proposed decision and order.

III.

Orders

THE COMMISSION ORDERS:

1. Miller & Lieb's request to submit its unaudited financial statements in lieu of an audited balance sheet, required under HAR § 6-61-75(b)(1), is approved, provided that Miller & Lieb make available for review all documentation supporting its financial statements, including all accounting books and records, to the commission and the Consumer Advocate.

2. The filing date of Miller & Lieb's complete Application is November 8, 2006.

3. The Parties shall: (a) initiate the discovery process without delay; and (2) unless directed otherwise, submit a stipulated procedural order setting forth the issues, procedural schedule, and procedures to govern Miller & Lieb's Application, within thirty (30) days from the date of this Order. At a minimum, the stipulated procedural schedule submitted by the Parties shall provide that Miller & Lieb's rebuttal testimony

(or rebuttal statement of position), if any, be filed by Friday, March 23, 2007, in order for the commission to reasonably meet the six (6)-month deadline of May 8, 2007. If the Parties are unable to agree on a procedural order, as prescribed, the commission will issue its own procedural order in accordance with HRS § 269-16(f)(3).

DONE at Honolulu, Hawaii DEC 13 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael A. Kim
for Ji Sook Kim
Commission Counsel

2006-0442.cp

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23134 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: DEC 13 2006